HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 13859 OF 1995

DATED: 14.11.2006

Between:

A. Sunki Reddy

… Petitioner

and

The Presiding Officer, Labour Court,
Anantapur and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.13859 OF 1995

ORAL ORDER:

The writ petition is misconceived.

The petitioner is a claimant who filed an application under Section 2(A) (2) of the Industrial Disputes Act, 1947 (for short 'the Act') assailing his removal from service, as a conductor of the A.P. State Road Transport Corporation.

As a conductor of the RTC, the petitioner was conducting bus bearing No. APZ 1157 on the road Kurnool to Raichur on 14.5.1981. While so, a check was exercised at stage No.20 and certain cash and ticketing irregularities were discovered. A charge-sheet was issued on 8.6.1981 containing six charges, including of failing to issue tickets to 33 individuals; for having collected fare from them; having closed the SR without completing the issue of tickets; for failing to attest the passengers statement at the spot enquiry; for having instigating passengers against the checking officials; for refusing to perform further duties; for having abandoned the bus at the time of check; and for having generally committed misconduct under the relevant conduct regulations.

After a due process of inquiry, the punishment of removal from service was imposed on the petitioner. His departmental appeals and revisions having provided no relief, the petitioner raised a dispute.

By the order dated 13.4.1994, an award was passed in I.D.No.265 of 1992. The Industrial Tribunal-cum-Labour Court, Anantapur (for short 'the Tribunal') concurred with the conclusions in the departmental enquiry and found the petitioner guilty of all the charges alleged and recorded that there was an ample oral and documentary evidence to substantiate the charges. On the question of the proportionality of the punishment of removal imposed, the Tribunal held that the punishment was disproportionate as the petitioner is alleged to have collected a small amount of Rs.33/-. There was also an abnormal delay of 9 years in approaching the Tribunal. Accordingly, the award was passed setting aside the order of removal and directing the appointment of the petitioner afresh as a conductor.

The writ petition is filed claiming that the petitioner ought to have been awarded continuity of service. There are no merits in this claim of the petitioner. The petitioner was guilty of a very serious misconduct not only of cash and ticketing irregularities but also of collecting the fares from the passengers and not remitting to the employer; a charge which in substance amounts to misappropriation. The charge against the petitioner of gross insubordination has also been established. In the circumstances, the punishment of removal was not liable to be interfered with. However, the Tribunal on a misguided application of the principle of proportionality has set aside

the order of removal and directed appointment of the petitioner afresh as a conductor with consequent loss of past service. The petitioner had the benefit of considerable misguided judicial discretion. He is entitled to no further.

The writ petition is without merits and is accordingly dismissed. There shall be no order as to costs.

GODA RAGHURAM, J

Date: 14.11.2006

CVM